

NINTH ADDENDUM TO SECOND AGREEMENT

**BY AND BETWEEN MIKE SCOTT, LCSO OF LEE COUNTY, FLORIDA AND THE
CITY OF BONITA SPRINGS FOR
ENHANCED LAW ENFORCEMENT SERVICES**

COMES NOW the parties hereto and enter into this Ninth Addendum to the Second Agreement, (the Agreement), by and between Mike Scott, Sheriff, Lee County, Florida and the City of Bonita Springs, Florida for enhanced law enforcement services dated October 1, 2010, and agree as follows:

WHEREAS, the Parties hereto may amend this Agreement pursuant to Article XXI (20.1), of The Agreement;

WHEREAS, the Parties hereto desire to amend the Agreement in the following manner;

NOW THEREFORE, in consideration of the mutual promises and conditions set forth herein, which the Parties hereto deem and acknowledge sufficient consideration, **the Parties agree as follows:**

1. The Recitals above are adopted and incorporated herein as if fully restated.
2. Exhibit "A", of the Agreement is deleted in its entirety and replaced with the following:

FISCAL YEAR 18/19

- a. Funding for Community Policing is established at an amount not to exceed \$1,678,052.00. The funding is to pay for 2 Sergeants and 14 Deputies.
 - b. Amount is effective October 1, 2018 through September 30, 2019.
 - c. Vehicles, rental vehicles and all equipment are included into the cost for Deputies and Sergeants.
3. All other terms and conditions of the Agreement, as modified, not inconsistent with this addendum, shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have caused their respective agents to execute this instrument on their behalf, on the dates set forth below.

BSC-18-08-146

NINTH ADDENDUM TO SECOND AGREEMENT

SHERIFF OF LEE COUNTY

U/S Mr
MIKE SCOTT, SHERIFF

6/20/18
Date

John Holloway
JOHN HOLLOWAY, CHIEF OF OPERATIONS
Approved as to form.

6/20/18
Date

CITY OF BONITA SPRINGS

Attest:

Peter Simmons
PETER SIMMONS MAYOR

Debbie Filipek
DEBBIE FILIPEK, CITY CLERK

APPROVED AS TO LEGAL FORM:

Audrey E. Vance
AUDREY E. VANCE, CITY ATTORNEY

SECOND
AGREEMENT

BY AND BETWEEN
MIKE SCOTT, LCSO OF LEE COUNTY, FLORIDA AND
THE CITY OF BONITA SPRINGS FOR
ENHANCED LAW ENFORCEMENT SERVICES

THIS AGREEMENT, by and between the CITY OF BONITA SPRINGS, a municipal corporation organized and existing under the laws of the State of Florida, hereinafter referred to as "CITY," and Mike Scott, Sheriff of Lee County, Florida, hereinafter referred to collectively as "LCSO."

WITNESSETH:

WHEREAS, the CITY is desirous of maintaining a high level of competent professional police service in conjunction and harmony with its fiscal policies of sound, economical management; and

WHEREAS, LCSO and CITY previously agreed on a basic services agreement with a continuing high level of professional police service, and the CITY is desirous of enhancing such services upon the terms and conditions hereinafter set forth; and

WHEREAS, CITY is desirous of enhancing daily police services above and beyond basic services already rendered through contractual relationship with LCSO.

NOW THEREFORE, in consideration of the sums hereinafter set forth and for other good and valuable considerations, the receipt and legal sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

ARTICLE I

DEFINITIONS

For the purposes of this Agreement, the following terms shall have the respective meanings hereinafter set forth:

1.1 **Agreement** shall mean this Agreement for Law Enforcement Services between the CITY and LCSO. This Agreement does not replace or supplant the basic services provided by the Sheriff but is to provide enhanced services above and beyond the basic services provided through general ad valorem revenues and other regular funding. However, nothing contained within this definition should prohibit Community Outreach Program (COPS) funding if available.

1.2 LCSO shall mean the duly elected and qualified Sheriff of Lee County, Florida.

1.3 LCSO'S Address shall mean Lee County Sheriff's Office, 14750 Six Mile Cypress Parkway, Ft. Myers FL 33912, (239) 477-1200.

1.4 CITY shall mean the City of Bonita Springs, Florida, a municipal corporation organized and existing under the laws of the State of Florida and located within the boundaries of Lee County, Florida.

1.5 CITY'S Address shall mean 9101 Bonita Beach Road, Bonita Springs FL 34135, (239) 949-6262.

1.6 CITY Boundaries shall mean the area within the municipal boundaries of the CITY.

1.7 City Manager shall mean the duly appointed and validly existing City Manager of the CITY. In the absence of the City Manager, the person acting in the capacity of City Manager shall have the same authority as that of the City Manager.

1.8 Deputy Sheriff shall mean an employee who is appointed by the Sheriff in accordance with Fla. Stat. 30.07 and who has executed any necessary oath which is required by law. This position consists of shift related duties which includes: arrest and citation of violators, crime prevention, traffic control, courtroom testimony, community policing, high visibility patrol, and others as determined by LCSO.

1.9 District Commander shall mean the individual appointed under Article XVI who is responsible for all employees and activities of the Bonita Springs Patrol Zone. The district commander shall hold the rank of Deputy Sheriff Captain. The duties of the district commander include compliance with provisions of this contract for law enforcement service, serve as liaison between the CITY and LCSO, and insure the maintenance of effective morale, discipline, and law enforcement service.

1.10 Patrol Unit shall mean one (1) marked car which shall be manned by one (1) Uniformed Officer and containing all standard support equipment and who is assigned to a Patrol within the City of Bonita Springs. Any patrol unit purchased by the CITY shall prominently display the City of Bonita Springs official seal and on the vehicle's exterior the legend "paid for by the City of Bonita Springs" in letters at least two (2) inches in height, to be paid for by the CITY.

1.11 Patrol Zone is the incorporated boundaries of the CITY that is part of the South District.

1.12 Salaries shall include wages, employer expenses (FICA), and employee benefits including, but not limited to, retirement benefits, health insurance benefits, workers compensation, vacation, compensatory time, and sick leave benefits.

1.13 Sworn Personnel shall mean any appointed deputy of the Sheriff, irrespective of the rank (i.e. Deputy Sheriff Sergeant, Deputy Sheriff Lieutenant, Deputy Sheriff Captain).

1.14 Uniformed Deputy means a Deputy Sheriff employed by LCSO who wears a LCSO uniform.

ARTICLE II

TERM

2.1 This Service Agreement shall remain in full force and effect commencing October 1, 2010 through September 30, 2011, the present term for Sheriff Mike Scott, all dates inclusive, conditioned upon the party's agreement as to the consideration to be paid by the City in each applicable fiscal year.

2.2 The CITY shall have the option to extend the Term for four (4) additional one (1) year terms, upon the same terms and conditions contained herein, except that the Consideration payable hereunder shall be subject to mutual agreement.

2.3 Either party may terminate this Service Agreement for any reason by giving no less than ninety (90) days prior written notice to the other party.

2.4 In the event of termination, both parties shall render such aid, coordination, and cooperation that might be required for an expeditious and efficient termination of service.

ARTICLE III

MANNER OF PERFORMANCE OF SERVICES

3.1 It is the intent of LCSO to provide to the CITY it's current, enhancing existing competent professional police protection within and throughout the corporate limits of the CITY as set forth in Exhibit A to this Agreement.

3.2 In recognition of the CITY's need to be informed of LCSO'S activities, LCSO'S District Commander and the City Manager will develop a mutually agreed upon reporting format(s) and reporting period(s), whereby LCSO will report its activities to the

City Manager. At any time during the term of this Agreement, the City Manager shall have the right to make reasonable modifications to the reporting format(s) and reporting period(s).

3.3 LCSO will ensure the courtesy and professional demeanor of the assigned Deputies through internal policies and staff inspections, in-service training, and diversity training.

ARTICLE IV

STAFFING STRUCTURE

4.1 Commencing October 1, 2010, the enhanced staffing structure of deputies of the Bonita Springs Patrol Zone in the South District shall be as set forth in Exhibit A attached hereto.

4.2 It is the responsibility of the District Commander or designee, in consultation with the City Manager, to properly assign personnel to adequately provide enhanced law enforcement services in the Bonita Springs Patrol Zone, pursuant to this Agreement.

ARTICLE V

PATROL UNITS

5.1 Each Uniformed Deputy Sheriff patrolling the Patrol Zone shall be assigned by the District Commander and work scheduled time, not to exceed forty-two hours per week, excepting holidays, overtime, off-duty detail, vacation leave, required training, court appearances, authorized sick leave, and such other absences as may be authorized by the SHERIFF or his designee.

5.2 The parties recognize that a law enforcement agency requires flexibility in order to meet society's challenge to combat crime and other social conditions. Therefore, the District Commander or his designee shall have the discretion to determine patrol staffing levels to provide adequate police services to the CITY subject to the requirements of paragraph 5.1. The LCSO recognizes that the Agreement is for enhanced services and nothing in this paragraph shall be construed as to replace community policing activities unless the circumstances warrant the modification because of lack of regular and basic patrol staffing levels in Bonita Springs and the immediate adjacent areas. Use of this discretion should be the exception and not the rule.

5.3 A professional level of service shall be provided by the patrol services contemplated by this Agreement. This professional level of service shall be in accordance with applicable laws and accepted police practices, including LCSO policies and procedures.

5.4 These patrol services shall be supervised within the discretion of the on-duty uniform patrol supervisor, with the understanding that the patrol services are enhanced services to provide community policing.

5.5 LCSO, through its Deputy Sheriffs assigned to the City of Bonita Springs, at the request of the City Manager, will provide additional enhanced services as agreed upon with the District Commander.

ARTICLE VI

CITY COUNCIL MEETINGS

6.1 At the request of the City Manager and in conformity with paragraph 5.1, one (1) Deputy Sheriff shall be present for the purpose of maintaining order at each regular or special City Council meeting during the regular shift of attending deputy.

ARTICLE VII

EMPLOYMENT RESPONSIBILITY

7.1 Any employees utilized by LCSO to fulfill the terms and conditions of this Agreement shall be deemed as employees of LCSO, not of the CITY.

7.2 Accordingly, the CITY shall not be responsible for or assume any liability for any employee's salaries, wages, or other compensation, contributions to pension funds, insurance premiums, workers compensation funds (Chapter 441, Florida Statutes 2002), vacation, compensatory time, sick leave benefits or any other amenities of employment to any LCSO Personnel performing services, duties and responsibilities hereunder for the benefit of said CITY and the residents thereof or any other liabilities whatsoever.

7.3 Further, unless otherwise specifically provided to the contrary herein, the CITY shall not be liable for compensation, contribution, indemnity to LCSO or the employees thereof for any injury or illness, of any kind whatsoever, arising out of such employment and the performance of the service, duties, and responsibilities contemplated herein.

ARTICLE VIII

EMPLOYMENT: RIGHT OF CONTROL

8.1 LCSO shall have and maintain sole responsibility and control over the rendition of services, training, standards of performance, discipline of personnel, and other matters incident to the performance of its services, duties, and responsibilities

described and contemplated herein, provided said control does not result in a permanent reduction in the staffing levels as provided in Article IV.

8.2 The parties acknowledge that it is important for the CITY to have LCSO personnel who are acquainted with the general make-up of the CITY including its geography; its industrial, business, and residential composition; and its law enforcement issues.

ARTICLE IX

EMPLOYMENT: AUTHORITY TO ACT

9.1 The CITY recognizes that LCSO shall be required to appoint employees as deputy sheriffs to act within the City for the purpose of enforcing this Agreement. The LCSO will endeavor to maintain units as described in Exhibit A attached hereto in the Bonita Springs Patrol Zone.

9.2 The CITY does hereby vest in any LCSO employee, who is appointed by the Sheriff as a deputy sheriff and certified as a law enforcement officer within Chapter 943, Florida Statutes 2002, the police powers which are necessary to implement and carry forth the services, duties, and responsibilities imposed upon LCSO by this Agreement, for the sole and limited purpose of giving official and lawful status and validity to the performance thereof by such sworn officers. Every sworn officer of LCSO so empowered hereby and engaged in the performance of the services, duties, and responsibilities described and contemplated herein shall be deemed to be a sworn officer of the CITY while performing such services, duties, and responsibilities which constitute municipal functions and are within the scope of this Service Agreement.

9.3 Accordingly, such sworn officers of LCSO are hereby vested with the power to enforce the ordinances of the CITY, to make arrests incident to the enforcement thereof, and to do such other things and perform such other acts as are necessary with respect thereto.

ARTICLE X

CONSIDERATION

10.1 The CITY agrees to pay LCSO, in consideration for the services described herein, for the fiscal year 2010/2011, the sum set forth in Exhibit "A" attached hereto. Exhibit "A" shall be amended from year to year as made necessary by the increased costs and expenses of staffing and maintaining a Deputy Sheriff.

10.2 The consideration payable by the CITY for fiscal year 2010/2011 shall be subject to an annual percentage adjustment, not to exceed a ten percent (10%) increase of the contractual consideration for the preceding year. Such increases shall

only be approved after LCSO has provided detailed financial back-up justifying the increase to the CITY.

10.3 LCSO shall have the right to temporarily fill any vacancy within the Bonita Springs District, provided the vacant position is filled by a LCSO employee that possesses skills, training and experience at least equivalent to the absent Bonita Springs Patrol Zone Deputy.

10.4 The consideration recited herein constitutes the entire consideration to be paid hereunder and upon the payment thereof, in the manner and at the times described herein, the CITY shall have no further monetary obligations to LCSO or any third party providing services described in this Service Agreement.

10.5 In the event that the CITY desires to add additional deputies, this agreement shall be provided for in writing, signed by both parties and added hereto as an addendum.

10.6 Capital equipment associated with the patrol units and the Bonita substation will be replaced on an as needed basis based on the maintenance costs and factors as deemed necessary by LCSO.

ARTICLE XI

ADDITIONAL SERVICES

11.1 The City Manager may request additional law enforcement services (i.e. K-9, motorcycles, foot patrol, special details) necessary to the CITY during the tenure of this Agreement.

11.2 LCSO agrees to make every reasonable effort to provide these services to the CITY.

ARTICLE XII

AUDIT OF RECORDS

12.1 LCSO shall maintain an accurate record of all LCSO personnel employed in the Bonita Springs Patrol Zone, and their hours of actual employment. Upon request of the City Manager, LCSO agrees to provide the CITY with payroll records concerning hours of actual employment for LCSO'S Bonita Springs District personnel.

12.2 LCSO agrees to provide for inspection and audit any other financial records relating to this Agreement, subject to public records exemptions.

ARTICLE XIII

FINES, FORFEITURES; PAYMENT

13.1 All law enforcement education funds levied and collected by the Clerk of the Court pursuant to Section 943.25, Florida Statutes, may be used by the LCSO for the law enforcement education purposes authorized in said Statutes. Apart from such funds, LCSO shall have no claim or right to any other monies or things of value which the CITY receives or may hereinafter receive by way of entitlement programs, grants or otherwise in connection with law enforcement activities.

13.2 It is hereby acknowledged between the CITY and LCSO that on occasion LCSO may receive equipment from the CITY pursuant to a grant or some other funding device which may be utilized at the sole discretion of the CITY. Prior to the purchase of any such equipment, the City Manager and District Commander shall mutually agree, in writing, to the specifications, maintenance responsibilities, and disposition procedures related to such equipment. In all cases, LCSO shall be responsible for any and all repairs or replacements necessitated by LCSO's abuse or neglect of the equipment.

ARTICLE XIV

DISTRICT COMMANDER

14.1 The District Commander shall, among other specified duties, act as liaison between the CITY and LCSO.

14.2 The parties hereby acknowledge and agree that LCSO retains the right to discipline and remove from office the District Commander or any Deputy Sheriff.

ARTICLE XV

INSURANCE

15.1 LCSO shall be self insured or maintain insurance coverage for the liabilities assumed by LCSO under this Agreement. The insurance coverage shall be in the amounts hereinafter described:

General Liability	\$100,000/200,000.00
Automobile Liability	\$100,000/200,000.00

15.2 LCSO shall maintain the respective coverage throughout the term of this Service Agreement, as the same may be extended in accordance with the provisions hereof.

15.3 LCSO shall provide CITY with adequate documentation concerning the coverage required hereunder, in order that the CITY, through the office of the City Clerk, may keep such documentation on file for the benefit of the public and inspection of the citizenry of CITY.

ARTICLE XVI

HOLD HARMLESS

16.1 Each party (indemnitor) hereby shall to the extent permitted by law indemnify from any liability and hold harmless the other party (indemnitee), its employees, agents, or servants against liability arising from any actions, causes of action, suits, trespasses, damages, judgments, executions, claims and demands of any kind whatsoever, in law or in equity, brought against the indemnitee its employees, agents, and servants as a result of the indemnitor, its employees, agents, or servants negligent acts or negligent omissions, or willful misconduct in the performance of its obligations under this Agreement.

16.2 If the indemnitee defends any actions, causes of action, suits, trespasses, damages, judgments, executions, claims and demands of any kind whatsoever, in law or in equity, directly or approximately caused by the negligent acts or negligent omissions or willful misconduct of indemnitor, its agents, servants, or employees, indemnitor agrees to reimburse the indemnitee for all expenses, attorneys' fees, and court costs incurred in defending such actions, causes of action, suits, trespasses, damages, judgments, executions, claims and demands.

16.3 Notwithstanding anything to the contrary contained herein, LCSO and the CITY shall, at all times, be entitled to the benefits of sovereign immunity as provided in Section 768.28, Florida Statutes, and common law. Nothing contained in this Agreement to the contrary shall be construed as a waiver of sovereign immunity.

ARTICLE XVII

INDEPENDENT CONTRACTOR

17.1 LCSO, for the purposes of this Service Agreement, is and shall remain an independent contractor; provided, however, such independent contractor status shall not diminish the power and authority vested in LCSO and its sworn officers pursuant to Article XI.

ARTICLE XVIII

AUTHORITY TO EXECUTE; NO CONFLICT CREATED

18.1 The Sheriff, pursuant to the powers under Article VIII of the Constitution of the State of Florida and the Statutes of the State of Florida, hereby represents that full power and authority exists to execute this Service Agreement. This includes the following:

- (a) His making and execution hereof shall create a legal obligation on the part of the Sheriff's Office of Lee County, Florida.
- (b) The same shall be enforceable by the CITY according and to the extent of the provisions hereof.

Nothing herein contained or no obligation on the part of LCSO to be performed hereunder shall in anyway be contrary to or in contravention of any policy of insurance or surety bond required of LCSO pursuant to the Laws of the State of Florida.

18.2 The Mayor and City Clerk, by their respective executions hereof, do each represent the following to LCSO:

- (a) They collectively have full power and authority to make and execute this Service Agreement on behalf of the City of Bonita Springs, pursuant to the Resolution of the City Council of CITY.
- (b) Nothing herein contained is in any way contrary to or in contravention of the Charter of the City of Bonita Springs or the Laws of the State of Florida.

ARTICLE XIX

NOTICE

19.1 All notices required hereunder shall be by regular U.S. Mail and or facsimile, and any notice required hereunder shall be addressed to the party intended to receive same at the following addresses:

CITY: City Manager
City Hall
City of Bonita Springs

9101 Bonita Beach Road
Bonita Springs, Florida 34135

c/o City Attorney
City Hall
City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs, Florida 34135

LC SO: Sheriff of Lee County
Lee County Sheriff's Office
14750 Six Mile Cypress Parkway
Fort Myers, Florida 33912

Legal Director
Lee County Sheriff's Office
14750 Six Mile Cypress Parkway
Fort Myers, Florida 33912

ARTICLE XX

NON-ASSIGNABILITY

LC SO shall not assign any of the obligations or benefits imposed hereby or contained herein, unless upon the written consent of the City Council of the CITY, which consent must be evidenced by a duly passed Resolution.

ARTICLE XXI

ENTIRE AGREEMENT; AMENDMENT

20.1 The parties acknowledge, one to another, that the terms hereof constitute the entire understanding and agreement of the parties with respect hereof. No modification hereof shall be effective unless in writing, executed with the same formalities as this Agreement is executed.

ARTICLE XXII

BINDING EFFECT

21.1 This Agreement shall inure to the benefit of and be binding upon the respective parties' successors.

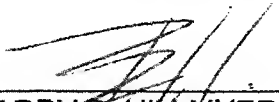
IN WITNESS WHEREOF, the parties hereto have caused their respective agents to execute this instrument on their behalf, at the times set forth below:

SHERIFF OF LEE COUNTY

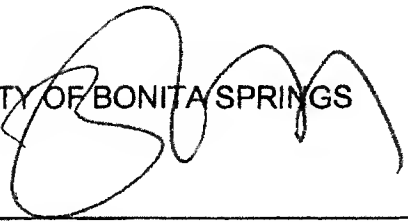


MIKE SCOTT

9/20/10
Date


BY: 

BARRY R. HILLMYER
Legal Advisor, LCSO



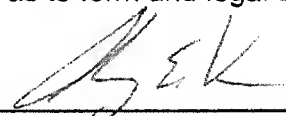
CITY OF BONITA SPRINGS
BEN L. NELSON, JR., MAYOR

9-16-10
Date

ATTEST:


DIANNE LYNN, CITY CLERK

Approved as to form and legal sufficiency

BY: 

AUDREY E. VANCE, CITY ATTORNEY

Approved as to form and legal
sufficiency subject to execution
By the parties:

BONITA CONTRACT

EXHIBIT "A" FISCAL YEAR 10/11

Full Year Funding		Unit	LS
Deputies	14	\$ 80,639.00	\$ 1,128,946.00
Sergeants	2	\$ 107,108.00	\$ 214,216.00
Deputy/SRO	0	\$ -	\$ -
Bonita Sub Station	1	\$ 264,673.00	\$ 264,673.00
Rental Vehicles	2	\$ 7,100.00	\$ 14,200.00
TOTAL FY 2010/2011			\$ 1,622,035.00

BONITA CONTRACT

EXHIBIT "A"
FISCAL YEAR 11/12

Description	Unit	Cost per Unit	Extended Cost
Deputies	14	\$80,639.00	\$1,128,946.00
Sergeants	2	\$107,108.00	\$214,216.00
Deputy/SRO	0	-	-
Bonita Sub Station	1	\$264,673.00	\$264,673.00
Rental Vehicles	2	\$7,100.00	\$14,200.00
New Vehicles	3 or 4	Cost TBD	NTE \$80,000.00
Grand Total			\$1,702,035.00